

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TORAN V. PETERSON,

Plaintiff,

Case No. 1:09-cv-233

v.

Honorable Paul L. Maloney

UNKNOWN FOCO et al.,

Defendants.

**ORDER VACATING JUDGMENT AND
AMENDED ORDER FOR PARTIAL SERVICE**

This is a civil rights action brought by a state prisoner under 42 U.S.C. § 1983. This matter is before the Court upon Plaintiff's second motion for reconsideration (docket #22) of the judgment dismissing his case without prejudice for failure to comply with the Court's order for partial service (docket #12), which required Plaintiff to file two (2) copies of the amended complaint and exhibits for service upon Defendants Foco and Daugherty. On October 29, 2009, the Court received Plaintiff's first motion for reconsideration (docket #18), with only one amended complaint attached. Therefore, the Court denied Plaintiff's first motion for reconsideration. Plaintiff has now filed his second motion for reconsideration (docket #22) with the second copy of his amended complaint attached.

In his second motion for reconsideration, Plaintiff requests the Court to: (1) re-open his case; (2) order the Michigan Department of Corrections (MDOC) to produce certain surveillance footage; and (3) order the MDOC to provide the address for Defendant Daugherty. Because Plaintiff has filed the necessary copies for service on Defendants Foco and Daugherty, the Court will re-open Plaintiff's case. Nevertheless, the Court will not require Defendants to produce certain surveillance

footage at this stage of Plaintiff's case. The Court may require the surveillance footage at a future time if it is necessary. The Court will also deny Plaintiff's request for the MDOC to provide the address of Defendant Daugherty for service of the amended complaint. This Court will first attempt to serve the amended complaint on Defendant Daugherty at the address provided. If the Court is unsuccessful, then Plaintiff may file a motion in this case for the MDOC to produce the address for Defendant Daugherty. Accordingly:

IT IS ORDERED that Plaintiff's second motion for reconsideration (docket #22) is GRANTED in part and DENIED in part. The Court shall RE-OPEN Plaintiff's case for further proceedings. However, Plaintiff's requests for the MDOC to produce certain surveillance footage and for the MDOC to provide the address for Defendant Daugherty are DENIED.

IT IS FURTHER ORDERED that the Court's September 21, 2009 Judgment of Dismissal (docket #16) is VACATED.

IT IS FURTHER ORDERED that Clerk shall arrange for service of summons and amended complaint, along with a copy of this order, upon Defendants Foco and Daugherty.

IT IS FURTHER ORDERED that Defendants Foco and Daugherty shall reply to the amended complaint after service, by way of answer, motion to dismiss, or motion for summary judgment, within the time allowed by law. *See* 42 U.S.C. § 1997e(g).

Dated: January 22, 2010

/s/ Paul L. Maloney

Paul L. Maloney

Chief United States District Judge